IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE NINETEENTH DAY OF AUGUST
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI DEVINDER GUPTA,THE CHIEF JUSTICE

and
THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 6467 of 2003

Between:

Soma Balakistaiah, R/o Kudikilla Village, Kollapur Mandal, Mahabubnagar District.

..... PETITIONER

AND

1. A.Rajendra Prasad, R/o Kudikilla village, Kollapur Mandal, Mahabubnagar District.
2. The Government of A.P., represented by Secretary to the Government, Civil Supplies, Secretariat, Hyderabad.
3. The Collector, Mahabubnagar District, Mahabubnagar.
4. The A.P. Pollution Control Board represented by its Member Secretary, 2nd Floor, HUDA Complex, Maithrivanam, S.R. Nagar, Hyderabad – 38.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to direct the respondents herein to stop the respondent No.1 from running the Milling Operation viz., running oil mill, flour mill, Haller, Decortcator etc., in house No.5-30 at

Kudikilla village, Kollapur Mandal, Mahabubnagar District by issuing a writ of mandamus or any other appropriate writ or order or direction.

Counsel for the Petitioner:MR.K.MAHIPATHI RAO

Counsel for the respondent No.1: Smt. N (P) Anajana Devi Satyanarayana

Counsel for the Respondent Nos.2 and 3: GP FOR CIVIL SUPPLIES

Counsel for the Respondent No.4: Mr.S.V.Bhatt

The Court made the following :

ORAL ORDER: (per the Hon'ble the Chief Justice)

The petitioner is a neighbour of the first respondent. Petitioner's grievance is that respondent No.1 who is the owner of the adjacent house separated by a common wall is misusing his property since 1995 by running a flour mill, miller, oil mill roller and decortcator without valid licence from the respective departments. He is also responsible for lot of noise and air pollution in the locality. Lot of dust and husk emanates from the mill and decortcator and vibrations are caused. According to the petitioner, he submitted a complaint to the gram panchayat, which has passed resolution directing the first respondent to shift his activity to the outskirts of the village. Despite that, respondent No.1 has continued his activity. Petitioner has also made reference to the orders passed by the Pollution Control Board and that the first respondent is not complying with the directions of the Board also and thus direction is sought to the respondents to stop the respondent No.1 from running the mills etc.

After respondents were served, counter affidavits were filed. It is stated that on 22-8-2003 an order was passed restraining the first respondent from operating the flour and oil mills at House bearing No.5-30 Kudikkilla village till further orders. There is a vacate application filed by the first respondent.

The first respondent states that there are four flour mills in the village including his in the residential area. One of the persons who is having a flour mill also has a huller, oil mill and decortcator. He states that the said three persons have no licence for their mills. According to the first respondent, his grand father had established the flour mill, huller, oil mill and decortcator in 1969 and continued to operate the same till his death. Thereafter, his father started running the same till his death about five years back and after his death, respondent No.1 continued the business till 2001 but after the orders were passed by the Board, he is running only

four mill. He also stated that he has licence to run flour mill, huller, oil mill and decortcator from the Gram Panchayat. In spite of the licence given by the Panchayat, he has been running only flour mill in obedience to the orders passed by the Pollution Control Board and then he stopped his activity after orders were passed by this court. He states that by running flour mill and other mills, no inconvenience is caused to the local public.

The pollution Control Board has also filed affidavit in reply stating that on receipt of the complaint from the petitioner inspection has been carried out and it was observed that the respondent No.1's Mill is located at Door No.5/30 Kudikilla village, Kollapur Mandal, Mahaboob Nagar District. The first respondent's mill has Atta Chakki, Decardicator, Huller and Oil Expeller (Rotary type). After inspection, the officials of the Board forwarded report to Task Force for necessary action. The Pollution Control Board after considering the recommendations of the Task Force, vide Order No.23/PCB/TF-HYD/2000-588 dated 29-9-2000 directed the 1st respondent to shift the unit from the existing location.

It is also stated that in order to ensure compliance of the order dated 29th September, 2000, fresh inspection was carried out on 27th June, 2001 and it was noticed that the respondent No.1 did not comply with the same which led to passing closure orders on 9th July, 2001. Affidavit further states that respondent No.1 approached the Board for revocation of closure order on the ground that he will operate only flour mill with capacity of 10 HP motor and will stop other activities. After considering the request of respondent No.1, temporary revocation of closure order was passed for a period of one month subject to certain conditions. Again on 18-1-2002, officials of the Board inspected the mill. At the time of inspection, noise level monitoring was conducted and it was noticed that the noise level was higher than the prescribed standard. Again the mill was inspected and noise test was conducted. It was still beyond the limits. It has been pointed out that the unit of the respondent No.1 comes under the green category and falls outside the 65 Categories and noise levels are exceeding the prescribed standards. Therefore, it was decided to request the District Collector to take appropriate steps for shifting of the unit.

Having heard the counsel for the parties and perused the counter affidavits, we are of the view that directions deserve to be issued to respondents to ensure due

compliance of the provisions of law in case respondent No.1 is still violating the provisions of law and directions issued by the Board. The respondent Board will have fresh inspection carried out while the first respondent-unit is in running condition and in case of violation of any of the requirements of law, it will proceed to take appropriate steps in the matter and ensure adherence to the rule of law that polluting units are not permitted to continue endlessly their activities to the detriment of the environment. In case any orders are required to be passed or request is to be made to the District Collector, the respondent-Board should ensure that the same will also be done and on receipt of such request, the District Collector will also ensure due compliance thereof. It will also be open for the respondent No.1 to put forth his case before the Board and in case the Board passes any order, it will be open for the first respondent to challenge the same in accordance with law.

Needful will be done by the Board within two months from the date of receipt of a copy of this order. It is made clear that it will be permissible for the respondent Board to permit the respondent No.1 to carry out the operations for a limited period with a view to make due assessment in order to pass appropriate orders under the various provisions of law.

Ordered accordingly and the writ petition stands disposed of.

_____

DEVINDER GUPTA, CJ

19-8-2004

_____

C.V.RAMULU, J

Tvr

To

1. The Secretary to Government, Government of A.P., Civil Supplies, Secretariat, Hyderabad.
2. The Collector, Mahabubnagar District, Mahabubnagar.
3. The Member Secretary, A.P. Pollution Control Board, 2nd Floor, HUDA Complex, Maithrivanam, S.R. Nagar, Hyderabad – 38.
4. 2 CCs to the Govt. Pleader for Civil Supplies, High Court Buildings, Hyderabad (OUT).
5. 2 CD copies.